

BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of)
)
 MUR 6281) CASE CLOSURE UNDER THE
 McPADDEN FOR CONGRESS) ENFORCEMENT PRIORITY
 AND HUNTER McPADDEN,) SYSTEM
 AS TREASURER)
 MICHAEL McPADDEN)

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GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The

Commission has determined that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6281 as a low-rated matter.

In this matter complainant, Edgar S. Robb, alleges that McPadden for Congress and Hunter McPadden, in his official capacity as treasurer ("the Committee"), violated 2 U.S.C. § 434(b), when the Committee failed to report \$2,971.38 owed to the complainant as an in-kind contribution or debt and failed to report print services received from a commercial vendor. The complainant asserts that he was hired by the Committee to serve as chief of staff for Michael McPadden, an unsuccessful Republican candidate for Congress from Virginia's 5th Congressional District.¹ The complainant states that his duties included traveling throughout the district, and he alleges the Committee agreed to pay him: (1) \$2,000 per month for his services; (2) mileage at the "IRS approved amount" of \$0.55 per

¹ The Republican primary was held on June 8, 2010, and Mr. McPadden came in third place.

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1 mile; and (3) "actual expense reimbursement" for his food costs while traveling on behalf
2 of the Committee.

3 The complainant states that he was employed by the Committee from October 16,
4 2009 through December 1, 2009, at which time the complainant informed the Committee
5 that he would continue to work only on an as-needed basis. Subsequently, the complainant
6 alleges that he requested payment for the expenses that he had accrued, along with \$3,000
7 in wages. The Committee paid the complainant \$3,000, and allegedly gave the complainant
8 a reimbursement form for mileage and food expenses. The complainant asserts that he
9 completed the expense form and submitted it to the Committee, but the Committee refused
10 to reimburse him for his expenses.

11 Responding on behalf of the Committee as well as himself, Michael McPadden
12 asserts that at no time was there a contract, promise or other agreement (written, oral,
13 implied, or otherwise) by the Committee to pay the complainant's mileage or food
14 expenses. Mr. McPadden states that while the Committee agreed to pay the complainant
15 \$2,000 per month for his services, the Committee never promised to pay the complainant
16 other expenses. Mr. McPadden alleges that the complainant has extensive experience in
17 political campaign consulting, and, therefore, should have inserted an expense provision in
18 his written contract if he in fact wanted to be reimbursed. According to Mr. McPadden, the
19 Committee has consistently rejected the complainant's demands for reimbursement, and
20 while the Committee did meet with the complainant following his departure, this meeting
21 was to discuss the complainant's "harassing" behavior towards Committee employees, and
22 not to discuss a settlement or possible reimbursement. Finally, Mr. McPadden asserts that
23 the Committee fully paid the printing service vendor and properly reported this payment.

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1 While the Committee denies that it owes the complainant a debt, the Committee is
2 nonetheless required to continuously report debts and obligations until extinguished,
3 including disputed debts where the creditor has provided something of value. 11 C.F.R.
4 § 104.3(d), 11 C.F.R. § 104.11, 11 C.F.R. § 116.10. In addition, the Committee must
5 disclose any amounts paid to the creditor, any amount the political committee admits it
6 owes, and the amount the creditor claims is owed. 11 C.F.R. § 116.10. The political
7 committee may also note that the disclosure of a disputed debt does not constitute an
8 admission of liability or a waiver of any claims the political committee may have against
9 the creditor. 11 C.F.R. § 116.10(a).

10 In this case, while the disputed debt was not reported by the Committee, the amount
11 at issue is relatively small. Therefore, in furtherance of the Commission's priorities and
12 resources and relative to other matters pending on the Enforcement docket, the Office of
13 General Counsel believes that the Commission should exercise its prosecutorial discretion
14 and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985). Additionally, this
15 Office intends on reminding McPadden for Congress and Hunter McPadden, in his official
16 capacity as treasurer, of the requirements under 2 U.S.C. § 434(b)(8) and 11 C.F.R.
17 §§ 104.3(d), 104.11, and 116.10 concerning the reporting of debts and obligations.

18 **RECOMMENDATIONS**

19 The Office of General Counsel recommends that the Commission dismiss
20 MUR 6281, close the file, and approve the appropriate letters. Additionally, this Office
21 recommends reminding McPadden for Congress and Hunter McPadden, in his official
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capacity as treasurer, that disputed debts must be reported as debts under 2 U.S.C.

§ 434(b)(8) and 11 C.F.R. §§ 104.3(d), 104.11, and 116.10.

Thomasenia P. Duncan
General Counsel

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Date

BY:

Gregory B. Baker
Special Counsel
Complaints Examination
& Legal Administration

Jeff S. Jordan by Mr
Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

Joshua B. Smith by Mr
Joshua B. Smith
Attorney

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